

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of Standing Rock)	WC Docket No. 09-197
Telecommunications, Inc.,)	
To Redefine Rural Service Areas)	

REPLY COMMENTS OF STANDING ROCK TELECOMMUNICATIONS, INC.

Standing Rock Telecommunications, Inc. (SRTI), a 100% Tribal-government owned wireless carrier of the Standing Rock Sioux Tribe (SRST), has filed separate petitions to the Commission for designation as an Eligible Telecommunications Carrier ("ETC")¹ and for the subsequent necessary Redefinition of Study² areas in order to service the entire tribal nation within the exterior boundaries of the Standing Rock Sioux Reservation ("Reservation"). In response to comments files by other parties in this proceeding SRTI states as follows:

I. THE COMMISSION HAS FLEXIBILITY TO DESIGNATE SRTI AS AN ETC AND REDEFINE THE STUDY AREA FOR ITS ENTIRE RESERVATION.

In the *Twelfth Report and Order*, the Commission outlined a series of matters that are to be taken into consideration for ETC petitions servicing Tribal Lands including "principles of tribal sovereignty, federal Indian law, and treaties."³ Specifically the Commission outlined that flexibility

¹ See 47 U.S.C. § 214(e) ("Provision of Universal Service"); as amended (Pub. L. No. 105-125, 1997). *Petition of Standing Rock Telecommunications, Inc. for Designation as an Eligible Telecommunications Carrier*, WC Dkt. No. 09-197 (Dec. 18, 2010)

² *Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Service Areas*, WC Dkt. No. 09-197 (Feb. 18, 2010)

³ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, *Twelfth Report and Order*, *Memorandum Opinion and Order*, and *Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, Para. 117 (2000) ("Twelfth Report and Order")

must be built into Commission rules and decisions in order to best ensure a respect for “tribal sovereignty and self determination.”

We are mindful that the federal trust doctrine imposes on federal agencies a fiduciary duty to conduct their authority in matters affecting Indian tribes in a manner that protects the interest of the tribes. We are also mindful that federal rules and policies should therefore be interpreted in a manner that comports with tribal sovereignty and the federal policy of empowering tribal independence.⁴

The Standing Rock Sioux Tribe has made it very clear in its Petition for ETC Status,⁵ Petition for Redefinition of Study Areas⁶, and again in its recently passed Tribal Resolution, that Standing Rock “approves and supports the definition of service area for Standing Rock Telecommunications Inc. to consist of all areas around and within the Standing Rock Indian Reservation.”⁷

The Commission’s own *Indian Policy Statement* clearly recognizes that “**Indian Tribes exercise inherent sovereign powers over their members and territory.**”⁸ In order to respect the Tribe’s “inherent sovereignty” over its own “territory,” the Commission must grant the Tribe ETC status over all of the lands within the Tribe’s own nation. See also, *Executive Order 13175*.⁹

⁴ *Twelfth Report and Order*, FCC Rcd 12208 at Para. 119

⁵ *Petition of Standing Rock Telecommunications, Inc. for Designation as an Eligible Telecommunications Carrier*, WC Dkt. No. 09-197 (Dec. 18, 2010)

⁶ *Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Service Areas*, WC Dkt. No. 09-197 (Feb. 18, 2010)

⁷ Standing Rock Sioux Tribal Council Resolution #159-10 (March 30, 2010) (emphasis added)

⁸ *FCC Statement of Policy Establishing a Government-to-Government Relationship with Indian Tribes*. Pg 3, III. Reaffirmation Of Principles Of Tribal Sovereignty And The Federal Trust Responsibility. (June 23, 2000) (“*Indian Policy Statement*”) (emphasis added)

⁹ *Executive Order 13175--Consultation and Coordination With Indian Tribal Governments* (November 6, 2000). “Fundamental Principles.” In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles: (a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes. (b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to

The details of how externally imposed Commission “boundaries” are appropriately adjusted to meet this primary goal are almost inconsequential. There are a number of routes the Commission may take, such as re-drawing wire centers completely to better align with Reservation boundaries, permitting SRTI to service those portions of wire centers on the Reservation (and within its licensed service area), creating on and off-reservation “zones” within each wire center,¹⁰ or creating a completely new system of measurement by the Commission. What is relevant, is that the Commission incorporate Tribes fully into its analysis and boundary measurements, in order to ensure Tribes may service their own Nations.

Below SRTI addresses some of the concerns raised by commenters to SRTI’s application to Redefine the Study Areas to comport with the boundaries of the Standing Rock Sioux Reservation.

II. VIRGINIA CELLULAR AND HIGHLAND CELLULAR WERE NOT ETC APPLICATIONS FOR CARRIERS SERVING TRIBAL LANDS.

Unlike SRTI, neither *Virginia Cellular*¹¹ nor *Highland Cellular*¹² involved Tribal carriers or carriers serving Tribal lands. While the statutory authority for the Commission to determine ETC status for all carriers not “subject to the jurisdiction of a state” emanates from 214(e)(6), it is clear from the *Twelfth Report and Order*, and subsequent Tribal lands ETC designations by the Commission,

self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights. (c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination

¹⁰ In the filed *Comments of the South Dakota Independent Telephone Coalition in reference to The Rural Task Force Recommendations to the Federal-State Joint Board on Universal Service* (November 2, 2000), the SDITC, (what is now the South Dakota Telecommunications Association (SDTA)), recognized the need for flexibility in “zones” within wire centers. Pg. 6-7.

¹¹ *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (2004) (“*Virginia Cellular*”)

¹² *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6438 (2004) (“*Highland Cellular*”)

that the analysis for Tribal lands is different and must be overlaid with the “principles of tribal sovereignty, federal Indian law, and treaties.”¹³

III. THE PUBLIC POLICY CONCERNS RAISED IN VIRGINIA CELLULAR AND HIGHLAND CELLULAR ARE INAPPLICABLE TO SRTI’S REQUEST.

Two primary public policy issues were raised in *Virginia Cellular* and *Highland Cellular*, neither of which is present here. First, in *Virginia Cellular* there was a concern regarding choosing specific wire centers within the service area that might result, even if unintentional, “cream-skimming.” As discussed in SRTI’s petitions, this is not the case in this instance (on average SRTI’s service area has a weighted average of 2.7 persons per square mile). Tellingly, this has not been raised by any of the incumbent providers as a concern. In fact, while it is difficult to provide exact “population density” numbers for the five wire centers at issue in the comments, as census tracts do not neatly follow wire center boundaries, by the commenters’ own numbers only 7.6% of their subscriber lines fall within the boundaries of the Standing Rock Sioux Tribe.¹⁴

The second public policy concern raised in *Highland Cellular* relates to servicing only a portion of a wire center, rather than the entire wire center. While in that case the Commission held that “making designations for a portion of a rural telephone company’s wire center would be inconsistent with the public interest,” the “public interest” concerns raised in *Highland Cellular* are inapplicable here.¹⁵ The “public interest” concern articulated in *Highland Cellular* is the exact reason

¹³ *Twelfth Report and Order*, FCC Rcd 12208 at Para 112-127 .

¹⁴ *Joint Comments by South Dakota Telecommunications Association (SDTA), North Dakota Association of Telecommunications Cooperatives (NDATC), West River Cooperative Telephone Company (WRCTC), and West River Telecommunications Cooperative (WRTC), submitted in Response to Comments South on a Petitions by Standing Rock Telecommunications Inc to Redefine Certain Rural Service Areas in Both and South Dakota*. WC Docket No. 09-197 (March 26, 2010) (“SDTA”). *Comments by Cheyenne River Sioux Telephone Authority submitted in Response to Comments South on a Petitions by Standing Rock Telecommunications Inc to Redefine Certain Rural Service Areas in Both and South Dakota*. WC Docket No. 09-197 (March 26, 2010) (“CRSTTA”). (“Incumbent Comments”)

¹⁵ *Highland Cellular*, 19 FCC Rcd 6438 at Para 33.

SRTI seeks to only service a portion of wire centers in this instance, in order to service an entire “community.”

The Commission clarified that in order to protect rural consumers from carriers relinquishing their ETC status in the future the Commission believes that “requiring a competitive ETC to serve *entire communities* will make it less likely that the competitor will relinquish its ETC designation at a later date.”¹⁶ SRTI agrees with these “public interest” goals. The Standing Rock Sioux Tribe and SRTI firmly believes that every Tribal Nation should be able to “serve their entire community,” which in this case would be within the external boundaries of the Standing Rock Reservation.

Additionally, it is very important that the rural residents of the Standing Rock Reservation continue to receive telecommunication services and options, as measured by maintaining SRTI’s ETC status. No private carrier has a more vested interest in ensuring that the people living on the Standing Rock Reservation have good communications services, and that SRTI maintains its ETC status. The Standing Rock Sioux Tribe has been working for nearly a decade to address service issues on the reservation that were prevalent with incumbent service providers. The result of this work is SRTI, a newly formed company that has strategically worked to purchase spectrum that adhere to the FCC’s Secondary Markets Initiative, signed roaming agreements, and has overcome institutional barriers to become the first tribally owned company to provide fixed and mobile services throughout its tribal lands service area. Standing Rock and SRTI have a very high level of investment in ensuring the success of SRTI and its ETC status.

¹⁶ *Federal-State joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, 20 FCC 6371, 6405 Para 77 (2005) (emphasis added) (“*Joint Board on Universal Service*”)

IV. WIRE CENTERS ARE NOT ALWAYS AN APPROPRIATE DESIGNATION FOR ETC DESIGNATION ON TRIBAL LANDS.

In *Highland Cellular*, the Commission used “wire centers” as a proxy and easy delineation for “communities.” Specifically the Commission stated that “[a] rural telephone company’s wire center is an appropriate minimum geographic area for ETC designation *because* rural wire centers *typically* correspond with county and/or town lines.”¹⁷ The states and the Commission’s own analysis and the evolution of telecommunications law have not always been inclusive of Tribal sovereignty and reservation boundaries, and this is certainly the case with the piecemeal development of wire center boundaries. While wire centers may take into consideration “county and/or town lines” they certainly were not created taking into consideration “Reservation lines.”

SRTI agrees that ETC designations should best encompass entire “communities,” which for Tribal lands is the entire Tribal Nation. Wherever possible, it is best to maintain current delineations for ease of all parties affected. However, for a variety of historical and legal reasons, wire centers are not always the best definition of “communities,” especially on Tribal lands.¹⁸

In most instances, wire center boundaries were often created decades before there was a true appreciation of the sovereign nature of Tribal boundaries within the telecommunications field. In much of the west, for example, wire centers boundaries grew up around fence lines and cattle crossing paths. In fact, many of the rights-of-way easements across Tribal lands were granted in the early 1900s without any Tribal approval. The wire center boundaries were created without consultation with Tribes and often without regard to their jurisdiction, boundaries, or even existence, and should not be blindly enforced as a proxy for “communities” for carriers on Indian

¹⁷ *Highland Cellular*, 19 FCC Rcd 6438 at Para 33. (emphasis added)

¹⁸ In fact, in its filing the CRSTTA expressed that its study area does not correspond to all lands lying within its reservation boundaries. This is unacceptable, and SRTI fully supports CRSTTA’s ETC designation for its entire Nation or “community.”

lands or for service areas on Indian reservations. To now enforce these “wire centers” boundaries which were created without regard for Tribal nations and their borders, as an inflexible proxy for “communities” would be institutionalizing a system inconsistent with the Standing Rock Sioux Tribe’s treaty with the United States, the Commission’s federal trust responsibility, and own *Indian Policy Statement*.

V. PRECEDENT FOR DESIGNATING ALONG RESERVATION BOUNDARIES.¹⁹

Precedent is not required for the Commission to designate SRTI’s as an ETC throughout its licensed area within the boundaries of the Standing Rock Reservation. As previously discussed, doing so is consistent with the *Twelfth Report and Order* and the *FCC Indian Policy Statement*.

There is no statute prohibiting the grant of ETC status for serving areas smaller than the boundaries of the wire center level, and strict interpretation of any precedent or rules are not necessary. The Commission has clearly stated in its decision on the Mescalero Apache Tribe’s application to waive the definition of a study area, that “Commission rules may be waived for good cause shown. ... [and] the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance *inconsistent with the public interest*.”²⁰ Denying a Tribe the ability to effectively serve to its entire Nation is clearly “inconsistent with the public interest.”

¹⁹ Very few ETC decisions have every been made for Tribally owned carriers. The barriers to entry are enormous, and only six (6) Tribes, out of the 564 Tribes in the United States have been granted ETC status by the Commission, Fort Mojave Telecommunications (1998); Gila River Telecommunications (1998); San Carlos Telecommunications (1998); Tohono O’Odham Telecommunications (1998); Saddleback Communications (Salt River Pima-Maricopa) (1998); Hopi Telecommunications (2007). A seventh Tribe, and the trailblazer, Cheyenne River Telephone Authority (1997) simply had the state’s designation upheld by the Commission. Only one Tribe, Hopi, since 1998 has received ETC designation from the Commission. It is long overdue for the Commission to give serious thought and consideration to the ETC and Study Area Redefinition processes for Tribes.

²⁰ *Mescalero Apache, et al, Joint Petition for Waiver of the Definition of “Study Area” Contained in the Part 36, Appendix-Glossary of the Commission’s Rules*. CC Docket No 96-45, DA 01-129, at Para 7. (2001) Citing 47 C.F.R. s13 and *WAIT Radio v FCC*, 418 F.2d 1153, 1159 (D.C. Cir 1969), *cert. denied*, 409 U.S. 1027 (1972) (emphasis added)

Additionally, the Commission has made clear that each petition for redefinition of a study area is a “case-specific analysis.”²¹

Nonetheless, there is precedent for the Commission to recognize the importance of designating ETC status along Reservation boundaries, even if previous decisions did not explicitly address servicing portions of wire centers. For example, on both the Navajo Reservation in Utah (*Smith Bagley*) and on the Pine Ridge Reservation in South Dakota (*Western Wireless*), the carriers were granted ETC status consistent with the boundaries of the Reservation.

In *Smith Bagley*, the Commission concluded that Smith Bagley’s “service area consists of the geographic area within the borders of the Reservation. We, therefore, designate SBI as an ETC on the Navajo Nation Reservation in Utah....”²² In *Western Wireless*, which similarly involved tribal lands in South Dakota, the Commission held that:

The designated service area differs from the study areas of three rural telephone companies...in as much as these study areas extend beyond the boundaries of the reservation.... This modification is necessary, however, because under section 214(e) (6) the Commission’s authority to designate carriers as ETCs is limited to areas in which the state does not have jurisdiction.²³

VI. THE INTERESTS OF INCUMBENT LECs ARE SUFFICIENTLY PROTECTED.

SDTA’s Comments offer no specific policy concerns, nor claims of harm, with regard to SRTI’s redefinition petition. The primary argument offered is a reference to the public policy arguments in *Highland Cellular*, which SRTI has already addressed.

²¹ *Joint Board on Universal Service*, 20 F.C.C.R. 6371 at Para. 75.

²² *Order, In re Federal-State Joint Board on Universal Service, Smith Bagley, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Navajo Reservation in Utah*, 22 F.C.C.R. 2479, Para 29 (2007)

²³ *See Federal-State Joint Board on Universal Service, Western Wireless Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota, Memorandum Opinion and Order*, 16 FCC Rcd 18133, 18141(2001). (“*Western Wireless*”) (Note: While not at issue in this petition as SRTI is a Tribal entity, SRTI strongly disagrees with the odd and unworkable bifurcation delineated in *Western Wireless* for the ETC status of a non-Tribal carrier on tribal lands in servicing tribal versus non-tribal customers.)

In fact, according to *Incumbent Comments*, this redefinition along the SRST's boundaries will have a *de minimus* affect on the incumbent LECs. Out of the five rural incumbent wire centers which overlap onto the Standing Rock Reservation, a mere 344 out of 4480 rural incumbent subscriber lines, or just 7.6%, fall within the boundaries of the Standing Rock Sioux Tribe's Reservation.²⁴

Additionally, being able to differentiate between tribal and non-tribal lands within each wire center apparently is not a difficult challenge or administrative burden for the incumbents. In fact each incumbent provided information on precisely which of its subscriber lines, and in most instances the exact square mileage down to two decimal points, which are on and off SRST's lands.

VII. THE COMMISSION ALONE SHOULD REDEFINE THE STUDY AREAS ON TRIBAL LANDS.

SRTI greatly appreciates the positive government-to-government conversations that have been on-going between SRTI and the South Dakota and North Dakota commissions (SDPUC and NDPSC) throughout this ETC application process, and SRTI appreciates the SDPUC's not contesting the Commissions authority to designate SRTI as an ETC.²⁵ SRTI looks forward to a strong and amicable working relationship for years to come.

However, SRTI respectfully disagrees that the Commission must obtain state agreement regarding the redefinition of study areas to wholly on Tribal lands. Such action is inconsistent with the Commission's *Indian Policy Statement*, the "public interest," and Section 214(e)(6) as applied to Tribal lands.

²⁴ Number and percentage of Subscriber lines on the Standing Rock Reservation for each of the Wire Centers at issue in the comments filed: Isabel-45 out of 238 lines, 18.9%; Lemmon-61 out of 1443 lines, 4.2%; Meadow-18 out of 209 lines, 8.6%; St. Anthony-89 out of 314 lines, 28.3%; Mobridge-131 out of 2276 lines, 5.7%; in total 344 lines out of 4480 or 7.6%. *Joint Comments by South Dakota Telecommunications Association (SDTA)*, WC Docket No. 09-197 (March 26, 2010) ("SDTA"). *Comments by Cheyenne River Sioux Telephone Authority submitted in Response to Comments South on a Petitions by Standing Rock Telecommunications Inc to Redefine Certain Rural Service Areas in Both and South Dakota*. WC Docket No. 09-197 (March 26, 2010) ("CRSTTA").

²⁵ *Comments of the South Dakota Public Utilities Commission in the Petition of Standing Rock Telecommunications Inc for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1996*, WC Docket No. 09-197 (February 18, 2010)

FCC regulation, 47 CFR 54.207(d), as cited by the SDPUC in its comments, precedes the enactment of Section 214(e)(6), and as such is inapplicable to petitions on Tribal lands. The Commission addressed this exact issue in *Western Wireless* when discussing the redefinition of the study area on the Pine Ridge Reservation:

...the Commission rule and process...as set forth in section 54.207 of the Commission's rules, was established prior to the adoption of section 214(e)(6). This rule therefore did not contemplate the current situation in which the Commission, in the absence of state jurisdiction over a carrier, has a statutory obligation to be the sole designating entity under section 214(e)(6).²⁶

While there have been subsequent decisions to *Western Wireless* which addressed the intersection of 54.207(d) and 214(e)(6) and found that the Commission must in fact follow the processes of 54.207(d) in seeking state "agreement," none of them involved Tribal lands, and each involved private state incorporated entities providing services on state lands.²⁷ Furthermore, the *Joint Board on Universal Service* did not address the issue specifically with regard to Tribal lands.²⁸

In addition, while neither required the same level of study area redefinition as in *Western Wireless* or in this petition, of the two Tribal lands cases which have been decided since *Highland Cellular* and the *Joint Board on Universal Service*, the Commission did not seek state commission agreement in either *Smith Bagley* (Navajo Reservation) or *Hopi Telecommunications* (Hopi Tribe).²⁹

²⁶ *Western Wireless*, 16 FCC Rcd. at 18140.

²⁷ *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, 19 FCC Rcd 6438 (2004) ("Highland Cellular"); *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the State of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (2004) ("Virginia Cellular")

²⁸ *Federal-State joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, 20 FCC 6371, 6405 Para 77 (2005) (emphasis added) ("Joint Board on Universal Service")

²⁹ *Order, In re Federal-State Joint Board on Universal Service, Smith Bagley, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Navajo Reservation in Utah*, 22 F.C.C.R. 2479, Para 29 (2007); *Order, In re Federal-State Joint*

SRTI is a Tribal governmental entity and all of the service area currently being discussed is wholly within the external boundaries of the Standing Rock Sioux Reservation and under the jurisdiction of the Tribe, it is not “subject to the jurisdiction of the state.” Section 214(e)(6) of the Communications Act clearly states that the Commission may designate as an ETC a common carrier “not subject to the jurisdiction of a State commission,”³⁰ for an established “service area” designated under Section 214(e)(6). Section 214(e)(5) further defines a “service area” as a “geographic area established by a State commission (**or the Commission under paragraph (6)**) for the purpose of determining universal service obligations and support mechanisms.”³¹

In addition, in the treaty between the U.S. government and the Standing Rock Sioux Tribe (The Fort Laramie Treaty of 1868 or “Treaty”), it is clear that issues involving utilities and infrastructure (“works of utility or necessity”) were intended to be negotiated directly between the Tribal government and the federal government.³² The statute, 214(e)(6), and previous regulations, 54.207(d), must be read in conjunction with the Commission’s own canon of interpretation with regard to Tribes, and as such the “federal rules and policies should...be interpreted in a manner that comports with tribal sovereignty and the federal policy of empowering tribal independence.”³³

The Commission stated very clearly in *Western Wireless* that Commission decisions with regard to study area definitions within the boundaries of Tribal lands do not need agreement of the state commissions:

Board on Universal Service, Hopi Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Hopi Reservation in Arizona, CC Docket 96-45, DA 07-459 (Jan 31, 2007)

³⁰ 47 U.S.C. 214(e)(6)

³¹ 47 U.S.C. 214(e)(5) “*Service Area*” *Defined*. (emphasis added)

³² *The Treaty of Fort of Laramie of 1868*, 15 Stat. 635 (Apr. 29, 1868).

³³ *Twelfth Report and Order*, FCC Rcd 12208 at Para. 119

We reject the contention of a few parties that the Commission must consult with the [state] Commission before designating Western Wireless as an ETC for a service area that differs from the rural telephone company's study area. We conclude that the federal-state process in section 214(e)(5) contemplates situations in which only one entity, either the state commission or this Commission, has the authority to designate the rural telephone company's entire study area as the ETC's service area. ...In any event, we do not believe that Congress envisioned that the designating entity might need to involve another regulatory body, or seek its permission, before designating an ETC for a service area otherwise lying wholly within its jurisdiction....³⁴

SRTI recognizes and respects North and South Dakota's interest in the portion of the service areas and wire centers beyond Standing Rock's reservation. However, SRTI strongly disagrees that any Commission decision with regard to the service areas solely on SRTI's lands must "not take affect until both the state commission and the Commission agree upon the definition of a rural service area."³⁵ It is not in the "public interest" to give a state commission what essentially may amount to "veto" authority over a Tribes ability to provide services within its own lands, particularly when Congress acted to clearly define a "streamlined" federal process for Tribal lands.³⁶

CONCLUSION

In conclusion, SRTI asks that the Commission designate its as an ETC, and designate its entire Nation, its "community"/"territory," as its service area. In doing so SRTI respectfully

³⁴ *Western Wireless*, 16 FCC Rcd. at 18140.

³⁵ 47 CFR 54.207(d)(2)

³⁶ There are new Commissioners at the SDPUC, and SRTI has been very grateful for the new and positive working relationship. However, in the case of the Cheyenne River Sioux Tribal Telephone Authority (CRSTTA), the SDPUC denied CRSTTA the right to purchase exchanges that were partially on CRST's land in order that the Tribe could provide wireline services to its entire Nation. *Cheyenne River Sioux Tribe Tel. Auth. V. Public Util. Comm'n of S.D.*, Civil No. 95-288 (S.D. Cir. Ct. Feb 21, 1997), *aff'd*, 595 N.W. 2d 604 (S.D. 1999). As FCC Commissioner Copps stated in his dissent on the Commissions ruling on the issue, the "effect of the decision of the PUC [was] to prevent Indian-owned telephone companies from purchasing exchanges." *Memorandum Opinion and Order, Cheyenne River Sioux Tribal Telephone Authority and US WEST Communications Inc Joint Petition for Expedited Ruling Preempting South Dakota Law*, CC Docket No 98-6, FCC 02-222, *Statement of Commissioner Michael J. Copps Concurring in Part, Dissenting in Part* (August 21, 2002)

requests any necessary waivers, and requests that the Commission follow its policies in a “manner that comports with tribal sovereignty and the federal policy of empowering tribal independence.”³⁷

Standing Rock Telecommunications, Inc. became operational on March 1, 2010 and is doing its utmost to provide services to this rural and remote tribal land area with a weighted average of 2.7 persons per square mile. The obstacles have been enormous and SRTI respectfully requests that the Commission grant ETC Designation to SRTI for its entire service area, the Standing Rock Sioux Reservation, in an expeditious manner to assure that the promise of Universal Service Policies and Programs reach all SRTI consumers.

If for some reason the process of the study area redefinition is delayed for the partial wire centers within the Reservation, SRTI respectfully requests an expedited ETC designation for all wire centers fully contained within the boundaries of the Standing Rock Sioux Reservation and those not shared with rural incumbents (McLaughlin, Ft. Yates, Selfridge, Morristown, McIntosh, and Timberlake). SRTI understands that it is the Commission’s preference to make decisions related to an ETC and redefinition of service areas all at once, however, SRTI hopes the Commission understands the importance of a quick ETC designation for the growth of SRTI. If additional time is needed to consider the five wire centers which overlap with rural incumbents outside the boundaries of the Standing Rock Sioux Reservation (Isabel, Lemmon, Meadow, St. Anthony, and Mobridge), a separate decision is requested in order to not delay immediate ETC designation for Standing Rock Telecommunications, Inc.

³⁷ *Twelfth Report and Order*, FCC Rcd 12208 at Para. 119

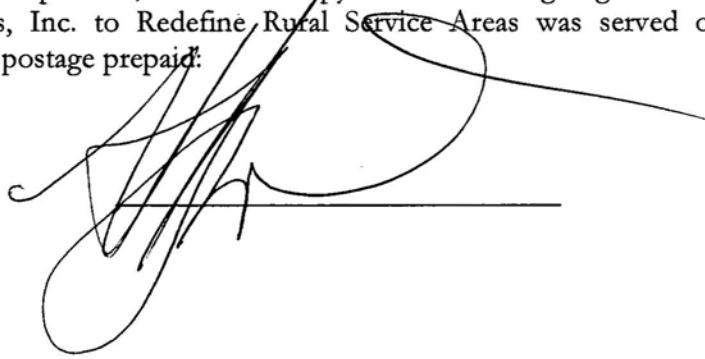
Dated this 12th of April, 2010.

A large, stylized handwritten signature in black ink, likely belonging to Heather Dawn Thompson, is written over a horizontal line.

Respectfully submitted,
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Certificate of Service

I hereby certify that on April 12, 2010 a copy of the foregoing Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Service Areas was served on the following parties by First-Class Mail, postage prepaid:



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RESOLUTION NO. 159-10

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[a], 1[c], 1[j], and 1[o], is authorized to negotiate with Federal, State and local governments and others on behalf of the Tribe, and to advise and consult with the representatives of the Department of Interior on all activities of the Department of the Interior which may affect the Tribe, to manage, protect and preserve the property of the Tribe and the wildlife and natural resources of the Standing Rock Reservation, to promote and protect the health, education and general welfare of the members of the Tribe, and to safeguard and promote peace, safety, morals, physical and general welfare of members of the Tribe; and

WHEREAS, on January 27, 2004, Standing Rock Telecommunications, Inc., was granted a Charter of Incorporation by Resolution No. 003-04; and

WHEREAS, the Standing Rock Sioux Tribe recognizes Standing Rock Telecommunications, Inc., as the Official Telecommunications Utility of the Standing Rock Indian Reservation; and

WHEREAS, Standing Rock Telecommunications, Inc., was established to provide for better telecommunications and broadband services throughout Standing Rock as a business entity; and

WHEREAS, the Standing Rock Sioux Tribe supports Standing Rock Telecommunications, Inc., efforts to provide high quality telecommunications and broadband services through its wireless services; and

WHEREAS, the Standing Rock Sioux Tribe understands that the need to provide quality telecommunications and broadband services to rural areas on Standing Rock is crucial to the overall safety and economic development of the Standing Rock Indian Reservation; and

NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby approves and the definition of service area for Standing Rock Telecommunications, inc., to consist of all areas around and within the Standing Rock Indian Reservation; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council carry out all business required to execute this transaction; and

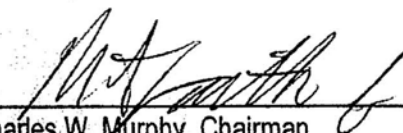
BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, are hereby certify that the Tribal Council is composed of [17] members, of whom 15, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 30th day of **MARCH, 2010**, and that the foregoing resolution was duly adopted by the affirmative vote of 13 members, with 1 opposing, and with 1 not voting, **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 30th DAY OF MARCH, 2010.

ATTEST:


Charles W. Murphy, Chairman
Standing Rock Sioux Tribe


Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

MEETING DATE: 03-30-2010
MOTION NO.: 07